THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION NO :19807 of 2005

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Dated: 20.09.2005

Between:

1. The Superintendent of Police, Kurnool District

Kurnool and three others. .. **Petitioners**

And

B. Rathna Swamy. **.. Respondent**

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO :19807 of 2005

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking a direction, in the nature of writ of certiorari, to set aside the Order dated 04.08.2005 in M.A.No.1125 of 2005 in O.A.No.79 of 2004 on

the file of the A.P., Administrative Tribunal, Hyderabad.

The respondent herein is the applicant before the Tribunal. The status of the parties will be referred to herein as arrayed in the O.A.

The brief facts that led to filing the O.A. are :

The applicant belongs to S.C. community and initially, he was appointed as Constable in Chittoor District. On the earlier occasion, the applicant filed various applications before the Tribunal as to the seniority list, his promotion, and training. In pursuance of the directions of the Tribunal, the applicant is included in the seniority list of Head Constables/ASI at appropriate place. According to him, now the applicant has to undergo refresher course training for promotion to the post of S.I. But, the respondents have sponsored the names of the juniors of the applicant ignoring him. Challenging the said action, the applicant has preferred the present O.A.

Pending O.A., the applicant filed M.A.No.1125 of 2005 seeking a direction to the respondents to sponsor his candidature for undergoing Refresher Training Course. The Tribunal while disposing of the said M.A., directed the respondents to sponsor the candidature of the applicant to undergo Refresher Training Course to get himself qualified to the post of Sub-Inspector of Police in the ensuing Refresher Training Course, to be conducted for 7th batch.

The learned Government Pleader for the respondents/writ petitioners contends that the applicant has not passed the qualifying test to become eligible to undergo Refresher Training Course. He further contends that the applicant was promoted as H.C. in the year 2003 and the qualifying test to undergo training course was conducted in the year 1999 and by that time as the applicant was PC, he was not eligible to appear for that test and he can appear for the next qualifying test to be conducted and therefore, the directions issued by the Tribunal are not sustainable and they are liable to be set aside. Apart from making the above submissions, he relied upon the G.O. Nos.215, dated 14.7.1995 r/w 374, 4.12.2000.

On the other hand, the learned Counsel for the applicant contends that the respondents have not conducted the qualifying test for the last more than six years and therefore, the observations made by the Tribunal need not be interfered with.

Admittedly, the present O.A. is pending. A perusal of the record clearly goes to show that in pursuance of the orders of the Tribunal, the respondents issued proceedings dated 29.5.2003 giving notional promotion to the applicant as Head Constable w.e.f. from 20.11.1983. As per orders of the respondents, the applicant was posted as HC in the year 2003.

The contention of the applicant is that the persons, who were sponsored to the Training course, are juniors to him. But, this question as to whether they are juniors or not and whether the applicant is eligible to undergo the training course, is a matter to be decided in the main O.A. itself, but not at this interlocutory stage.

It is the other contention of the applicant that for the last six years no qualifying test has been conducted. But, the said contention has to be raised at the appropriate stage of the proceedings before the tribunal.

Apart from that, a perusal of the record goes to show that the relief sought for in the main O.A. and the relief that has been granted by the tribunal in the nature of interim relief, is one and the same and if that being the case, nothing remains to be considered in the main O.A. In such view of the matter, since the matter requires thorough enquiry after hearing both the parties and affording an opportunity to them, the order now granted by the tribunal in the nature of interim relief, is not sustainable and the same is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the Order impugned. However, the Tribunal is directed to dispose of the O.A. within a period of three months from the date of receipt of a copy of this Order. No order as to costs.

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Justice T. Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 20.09.2005

Nn.